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LISTON, SALES, § 119. The authorities for the doctrine of the principal case, however, admit that the purchaser has an equitable estate, but say that it fails by operation of law upon the extinguishment of the contract, or that it is "rebutted" by the agreement to rescind. *Proctor v. Thompson*, 13 Abb. N. C. (N. Y.) 340; *Raffensberger v. Cullison*, 28 Pa. St. 426. This reasoning appears to be fallacious, and the majority rule would seem preferable.

TAXATION — GENERAL LIMITATIONS ON THE TAXING POWER — STATE TAX ON EXPORTS. — A Pennsylvania statute imposed a tax on dealers in merchandise, based on the volume of business transacted. The tax was assessed upon the gross receipts of plaintiff's business, including the greater part that came from the sale of merchandise shipped to foreign countries, on orders taken there. *Held*, that in so far as this tax is levied upon such gross receipts, it constitutes a regulation of foreign commerce and an impost on exports, in violation of the United States Constitution, Article 1, §§ 8, 10. *Crew Levick Co. v. Pennsylvania*, 38 Sup. Ct. Rep. 126.

A state has no power to tax either foreign or interstate commerce. *Brown v. Maryland*, 12 Wheat. (U. S.) 419; *Case of the State Freight Tax*, 15 Wall. (U. S.) 232. See 28 HARV. L. REV. 93. A tax on those soliciting for an unlicensed foreign business establishment is unconstitutional. *Robbins v. Shelby County Taxing District*, 120 U. S. 489; *McCall v. California*, 136 U. S. 104. A state may not tax the gross receipts of railroads, or of other transportation companies, or telegraph companies, doing an interstate business. *Fargo v. Michigan*, 121 U. S. 230; *Galveston, etc. Ry. Co. v. Texas*, 210 U. S. 217; *Crutcher v. Kentucky*, 141 U. S. 47; *Leloup v. Port of Mobile*, 127 U. S. 640. A state has power to tax all property having a *situs* within its limits, and the use of such property in interstate commerce does not render it exempt from state taxes. A license fee may be exacted, even if it is a burden on interstate commerce, provided it is a legitimate exercise of the police power. *Wiggins Ferry Co. v. East St. Louis*, 107 U. S. 365. The greatest difficulty has been found in passing upon the validity of state taxes upon corporations doing an intra-state and an interstate business. *State Tax on Railway Gross Receipts*, 15 Wall. (U. S.) 284; *Philadelphia, etc. S. Co. v. Pennsylvania*, 122 U. S. 326; *Maine v. Grand Trunk Ry. Co.*, 142 U. S. 217; *West. Un. Tel. Co. v. Kansas*, 216 U. S. 1; *Williams v. Talladega*, 226 U. S. 405; *Baltic Mining Co. v. Massachusetts*, 231 U. S. 68; *Lusk v. Botkin*, 240 U. S. 236; *Looney v. Crane Co.*, 38 Sup. Ct. Rep. 85. See J. H. Beale, "Taxation of Foreign Corporations," 17 HARV. L. REV. 248; T. R. Powell, "Indirect Encroachments on the Federal Authority by the Taxing Powers of the States," 31 HARV. L. REV. 321, 572, 721. The holding in the principal case seems to throw additional doubt upon the authority of one prior adjudication. *Cf. Ficklin v. Shelby County Taxing District*, 145 U. S. 1. The Pennsylvania tax applied equally to domestic and foreign commerce, but this does not make it valid as a property or a privilege tax. Its operation was to lay a direct burden upon each transaction in foreign commerce, and as such was properly declared unconstitutional.

TAXATION — INCOME TAX — STOCK DIVIDENDS AS INCOME. — A corporation declared a stock dividend on the occasion of the transfer of surplus earnings to its capital account. The surplus was earned before the passage of the Income Tax Act but the dividend was declared after the passage of the act. The act provided for a tax to be "levied . . . upon the entire net income arising or accruing from all sources . . . to every citizen of the United States." A stockholder paid the income tax on his share of the dividend under protest, and sought to recover the amount paid. *Held*, that a stock dividend is not income, within the meaning of the act. *Towne v. Eisner*, 38 Sup. Ct. Rep. 158.

For a discussion of this case, see Notes, page 787.

**TAXATION — WHERE PROPERTY MAY BE TAXED — BANK DEPOSITS AT DOMICILE OF OWNER.** — Deposits in a bank in Missouri owned by a resident of Kentucky were taxed at the owner's domicile. *Held*, that the tax was valid as a tax on the owner, measured by his property. *Fidelity & Columbia Trust Co. v. City of Louisville*, 38 Sup. Ct. Rep. 40.

For a discussion of this case see Notes, page 786.

**TORTS — CRIMINAL ACT — TORT LIABILITY FOR VIOLATION OF CRIMINAL LAW.** — The plaintiff sought recovery of a sum extorted from him by the defendant and also of the sum of \$125 as special damages incidental thereto. A statute made extortion a crime. (1915, REM. CODE, [Wash.] § 2610.) *Held*, that plaintiff is entitled to recover under the statute. *Bertschinger v. Campbell*, 168 Pac. 977 (Wash.).

The plaintiff had a good cause of action in quasi-contract for the sum extorted. *Hartford Fire Ins. Co. v. Kirkpatrick*, 111 Ala. 456, 20 So. 651; *Wilbur v. Blanchard*, 22 Idaho, 517, 126 Pac. 1069. But the holding of the court, that the statute making extortion a crime created in favor of the plaintiff a cause of action for injuries received from the commission of that crime, is evidently erroneous. It may be argued that since the statute makes extortion a wrong, anyone suffering from the wrong may recover in tort. But this was an intentional injury for which the common law gave no redress; and by no reasonable construction can the simple criminal statute be made to give a civil right of action. A criminal statute designed to protect a particular group of individuals may give to a member of that group a civil action for a violation thereof. *Couch v. Steel*, 3 El. & Bl. 402; *Chamberlaine v. Chester, etc. Ry.*, 1 Exch. 870; *Willy v. Mulledy*, 78 N. Y. 310. See COMYN'S DIGEST, Action upon Statute (F). Some courts have so construed child labor statutes. *Strafford v. Republic Iron Co.*, 238 Ill. 371, 87 N. E. 358. However, such is not the nature of this statute. It would seem evident, therefore, that the plaintiff has no cause of action for the special damages. See 2 JAGGARD, TORTS, § 263. See also Thayer, "Public Wrong and Private Action," 27 HARV. L. REV. 317.

**TRUSTS — CREATION AND VALIDITY — ORAL AGREEMENT TO HOLD LAND OR THE PROCEEDS THEREOF IN TRUST.** — Plaintiff conveyed land to his sister without consideration, on an oral agreement that she should enjoy the income therefrom for life, remainder to him on her death, or if she should elect to sell the land she was to enjoy the use of the proceeds of the land for life, remainder to him. The sister sold the land, and on her death plaintiff sues her executor for the proceeds. *Held*, that he may recover. *Chace v. Gardner*, 117 N. E. 841 (Mass.).

The question to be determined is whether the agreement created a trust in land so as to come within the statute of frauds. Where there is an express agreement to sell the realty, and hold the proceeds in trust, there is a split of authority as to whether the trust is enforceable. *Bock v. Martin*, 132 N. Y. 280, 30 N. E. 584; *Brown v. Logan*, 20 Okla. 334, 95 Pac. 441. *Contra, Cameron v. Nelson*, 57 Nebr. 381, 77 N. W. 771; *Benson v. Dempster*, 183 Ill. 297, 55 N. E. 651. It seems on principle that at the time of creation of the trust, an interest in land is in fact conveyed, and that some indication of the intent of the transferee to hold the proceeds in trust should be required at or after the time of the conversion. *Collar v. Collar*, 36 Mich. 507, 49 N. W. 551. *In re Symond's Trusts*, 201 Pa. 413, 50 Atl. 1005. Where the transferee has an option to convert into cash or not, as he chooses, since he may elect to retain the land, it seems even clearer that the trust is one of land. It might be possible, however, to split up the agreement into two parts, one being an agreement to hold the proceeds in trust if a conversion was effected. But even this does not meet the objection, that some expression of intent by the transferee to be